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6 Attorneys for Defendant
Evergreen Pulp, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, the
12 PEOPLE OF THE STATE OF CALIFORNIA,
13 *ex rel.* CALIFORNIA AIR RESOURCES
BOARD, and NORTH COAST UNIFIED AIR
QUALITY MANAGEMENT DISTRICT,

14 || Plaintiffs,

15 || VS.

16 EVERGREEN PULP, INC.,

17 || Defendant.

Case No. C 07 05067 SBA

**STIPULATION AND [PROPOSED] ORDER
MODIFYING CERTAIN PRETRIAL DATES**

19 Plaintiffs United States of America, the People of the State of California *ex rel.* California
20 Air Resources Board, and the North Coast Unified Air Quality Management District (collectively
21 "Plaintiffs"), and Defendant Evergreen Pulp, Inc. ("Evergreen"), hereby agree and stipulate as
22 follows:

23 1. On October 2, 2007, Plaintiffs filed a Complaint against Evergreen pursuant to
24 Section 113 of the Clean Air Act, 42 U.S.C. § 7413, California Health & Safety Code § 42403,
25 and North Coast Unified Air Quality Management District Rule 105. On the same date, Plaintiffs
26 lodged a Consent Decree that, if approved and entered as the judgment of the Court in this case,
27 would resolve the claims alleged in the Complaint.

1 2. On October 2, 2007, the Court issued an Order Setting Initial Case Management
 2 Conference and ADR Deadlines ("Scheduling Order"), establishing the following deadlines:

- 3 • December 20, 2007: Last day to meet and confer regarding initial disclosures,
 4 early settlement, ADR process selection, discovery plan, file a Joint ADR
 5 Certification with Stipulation to ADR Process or Notice of Need for ADR
 6 Phone Conference.
- 7 • January 3, 2008: Last day to file Rule 26(f) Report, complete initial disclosures
 8 or state objections in Rule 26(f) Report, and file Case Management Statement
 9 per attached Standing Order regarding Contents of Joint Case Management
 10 Statement.
- 11 • January 10, 2008 at 3:00 p.m.: Initial Case Management Conference.

12 The Order Setting Initial Case Management Conference and ADR Deadlines provides that "[i]f the
 13 Initial Case Management Conference is continued, the other deadlines are continued accordingly."

14 3. On October 12, 2007, notice of the lodging of the Consent Decree and the opening
 15 of a 30-day public comment period was published in the *Federal Register*, 72 Fed. Reg. 58125
 16 (October 12, 2007).

17 4. On October 17, 2007, in light of the lodging of a Consent Decree that, if approved,
 18 would resolve all of the claims asserted in this action and obviate the need for continued litigation,
 19 the Parties filed a Stipulation and [Proposed] Order Extending Certain Pretrial Dates, including the
 20 dates set forth in the Scheduling Order. The Court did not approve this proposed order.

21 5. On October 26, 2007, the Court issued a Clerk's Notice rescheduling the Case
 22 Management Conference to 4:00 p.m. on January 10, 2008. The Clerk's Notice requires the
 23 Parties to "file a Joint Case Management Conference Statement 10 days in advance of the Case
 24 Management Conference that complies with the Standing Order For All Judges Of The Northern
 25 District Of California and the Standing Order of this Court." In accordance with the Clerk's
 26 Notice, the Joint Case Management Conference Statement is due no later than December 31, 2007.

27

28

6. On December 13, 2007, after evaluating and responding to the comments received during the comment period, Plaintiffs filed a Request to Enter Consent Decree and Memorandum in Support of Request to Enter Consent Decree.

7. In light of the filing of the Request to Enter the Consent Decree, which Request, if approved, would result in the entry of final judgment resolving all of the claims asserted in this action, and in order to avoid incurring unnecessary expense in this action while the Court considers that Request, the Parties stipulate to, and request that the Court adopt, an order that provides as follows:

- (a) The deadlines described in paragraph 2, above, should be vacated.
 - (b) The Case Management Conference, scheduled for January 10, 2008, should be continued to a future date to be established only in the event that the Court denies the Request to Enter Consent Decree.
 - (c) At such continued Case Management Conference, if it occurs, new deadlines for the requirements described in paragraph 2 should be set.
 - (d) Evergreen's response to the Complaint shall be filed no later than thirty (30) days after filing and service of an order denying the Request to Enter Consent Decree.

8. Except as set forth above, there have been no other modifications to or extensions of dates set forth in any order of this Court.

SO STIPULATED.

Dated: December 14, 2007

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
DAVID D. COOKE

By: /s/ David D. Cooke

DAVID D. COOKE
Attorneys for Defendant
Evergreen Pulp, Inc.

1 Dated: December 14, 2007

2 RONALD J. TENPAS
3 Acting Assistant Attorney General
Environment & Natural Resources Division
United States Department of Justice

4 By: /s/ Ann C. Hurley

5 ANN C. HURLEY
6 Attorneys for Plaintiff
United States of America

7 Dated: December 17, 2007

8 OFFICE OF THE CALIFORNIA ATTORNEY
GENERAL
9 EDWIN G. BROWN, JR.
Attorney General of the State of California

10 MARY HACKENBRACHT
11 Assistant Attorney General

12 By: /s/ Anita E. Ruud

13 ANITA E. RUUD
14 Attorneys for Plaintiff
California Air Resources Board

15 Dated: December 14, 2007

16 LAW OFFICES OF NANCY DIAMOND
NANCY DIAMOND

17 By: /s/ Nancy Diamond

18 NANCY DIAMOND
19 Attorneys for Plaintiff
North Coast Unified Air Quality
Management District

20 Attestation Regarding Signature: This document is being filed electronically under my
21 User ID and Password. Pursuant to General Order 45, Section X.B, I hereby attest that
22 concurrence in this filing of this document has been obtained from each of the other signatories to
23 this document.

24 I declare under penalty of perjury under the laws of the United States that the foregoing is
25 true and correct. Executed December 17, 2007 in San Francisco, California.

27 /s/ David D. Cooke
28 David D. Cooke

[PROPOSED] ORDER

Pursuant to stipulation, and for good cause shown, the Court orders as follows:

1. The following deadlines, set forth in the October 2, 2007, Order Setting Initial Case Management Conference and ADR Deadlines ("Scheduling Order"), are hereby vacated:

- December 20, 2007: Last day to meet and confer regarding initial disclosures, early settlement, ADR process selection, discovery plan, file a Joint ADR Certification with Stipulation to ADR Process or Notice of Need for ADR Phone Conference.
 - January 3, 2008: Last day to file Rule 26(f) Report, complete initial disclosures or state objections in Rule 26(f) Report, and file Case Management Statement per attached Standing Order regarding Contents of Joint Case Management Statement.

13 2. The Case Management Conference scheduled for January 10, 2008, shall be
14 continued to a future date, to be selected by the Court, in the event the Court denies the pending
15 Request to Enter Consent Decree, filed by Plaintiffs on December 13, 2007. New deadlines for
16 completion of the parties' obligations identified in the Scheduling Order shall be adopted at such
17 continued Case Management Conference, if it occurs.

18 3. Evergreen's response to the Complaint shall be filed no later than thirty (30) days
19 after notification by the Court to the Parties that it will not enter the Consent Decree.

SO ORDERED.

21 | Dated: _____

Honorable Saundra B. Armstrong
United States District Judge